

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Health Facilities Regulation Division**

3 **STANDARDS FOR HOSPITALS AND HEALTH FACILITIES**

4 **CHAPTER II, GENERAL LICENSURE STANDARDS**

5 **6 CCR 1011-1 Chap 02**

6 **Part 2, LICENSURE PROCESS**

7 **2.2 Definitions**

8 For purposes of this Part 2, the following definitions shall apply:

9

10 2.2.7 "ENFORCEMENT ACTIVITY" MEANS THE IMPOSITION OF REMEDIES SUCH AS CIVIL MONEY PENALTIES;
11 APPOINTMENT OF A RECEIVER OR TEMPORARY MANAGER; CONDITIONAL LICENSURE; SUSPENSION OR
12 REVOCATION OF A LICENSE; A DIRECTED PLAN OF CORRECTION; INTERMEDIATE RESTRICTIONS OR CONDITIONS,
13 INCLUDING RETAINING A CONSULTANT, DEPARTMENT MONITORING, OR PROVIDING ADDITIONAL TRAINING TO
14 EMPLOYEES, OWNERS, OR OPERATORS; OR ANY OTHER REMEDY PROVIDED BY STATE OR FEDERAL LAW OR AS
15 AUTHORIZED BY FEDERAL SURVEY, CERTIFICATION, AND ENFORCEMENT REGULATIONS AND AGREEMENTS FOR
16 VIOLATIONS OF FEDERAL OR STATE LAW.

17 2.2.78 "Health Care Entity" means a health care facility or agency that is required to obtain a license from the
18 Department pursuant to section 25-3-101, C.R.S. Unless otherwise indicated, the term "health care
19 entity" is synonymous with the terms "health facility" or "facility" as used elsewhere in 6 CCR 1011-1,
20 Standards for Hospitals and Health Facilities.

21 2.2.89 "Indirect Ownership" means any ownership interest in an entity that has an ownership interest in the
22 applicant, including an ownership interest in any entity that has an indirect ownership interest in the
23 applicant.

24 2.2.910 "Licensee" means the person, business entity or agency that is granted a license or certificate of
25 compliance to operate a health care entity and that bears legal responsibility for compliance with all
26 applicable federal and state statutes and regulations.

27 2.2.101 "Management Company" means the person, business entity or agency that is paid by the licensee and
28 has a contractual agreement with the licensee to manage the day-to-day operation of the health care
29 entity on behalf of the licensee.

30 2.2.142 "Review" means any type of administrative oversight by the Department including, but not limited to,
31 examination of documents, desk audit, complaint investigation, SURVEY, REVISIT or on-site inspection.

32 2.2.13 "REVISIT" MEANS A FOLLOW-UP SURVEY CONDUCTED AFTER DEFICIENCIES HAVE BEEN CITED. THE PURPOSE IS
33 TO DETERMINE IF THE HEALTH CARE ENTITY IS NOW IN COMPLIANCE WITH THE APPLICABLE STATE REGULATIONS
34 OR FEDERAL CONDITIONS OF PARTICIPATION.

35 2.2.14 "SURVEY" MEANS AN INSPECTION OF A HEALTH CARE ENTITY FOR COMPLIANCE WITH APPLICABLE STATE
36 REGULATIONS OR FEDERAL CONDITIONS OF PARTICIPATION.

1 2.2.15 "TIERED INSPECTION" MEANS AN ON-SITE RELICENSURE SURVEY THAT HAS A REDUCED SCOPE AND REVIEWS
2 FEWER ITEMS FOR COMPLIANCE WITH APPLICABLE STATE REGULATIONS THAN A FULL RE-LICENSURE SURVEY.

3

4 2.7 Change of Ownership/MANAGEMENT

5 2.7.1 When a currently licensed health care entity anticipates a change of ownership, the current licensee
6 shall notify the Department within the specified time frame and the prospective new licensee shall
7 submit an ~~initial license~~ application for CHANGE OF OWNERSHIP along with the requisite fees and
8 documentation within the same time frame. The time frame for submittal of such notification and
9 documentation shall be least ninety (90) calendar days before a change of ownership involving any
10 health care entity except those specifically enumerated in subsection (A) below.

11 (A) Notification and documentation regarding the change of ownership of an assisted living
12 residence; HOME CARE AGENCY; facility for persons with developmental disabilities; outpatient
13 mental health care facility, including but not limited to a community mental health center or
14 clinic; and any extended care facility or hospice with sixteen (16) or fewer inpatient beds,
15 including but not limited to nursing homes or rehabilitation facilities, shall be submitted to the
16 Department at least thirty (30) calendar days before the change of ownership.

17 2.7.2 IN GENERAL, THE CONVERSION OF A HEALTH CARE ENTITY'S LEGAL STRUCTURE, OR THE LEGAL STRUCTURE OF
18 AN ENTITY THAT HAS A DIRECT OR INDIRECT OWNERSHIP INTEREST IN THE HEALTH CARE ENTITY IS NOT A
19 CHANGE OF OWNERSHIP UNLESS THE CONVERSION ALSO INCLUDES A TRANSFER OF AT LEAST 50 PERCENT OF
20 THE LICENSED HEALTH CARE ENTITY'S DIRECT OR INDIRECT OWNERSHIP INTEREST TO ONE OR MORE NEW
21 OWNERS. SPECIFIC INSTANCES OF WHAT DOES OR DOES NOT CONSTITUTE A CHANGE OF OWNERSHIP ARE SET
22 FORTH BELOW IN SECTION 2.7.3

23 2.7.23 The Department shall consider ~~any of the following circumstances to constitute a change of ownership.~~
24 the following criteria in determining whether there is a change of ownership of a health care entity that
25 requires a new license:

26 ~~(A) — Partnerships: Dissolution of the partnership and conversion thereof into any other entity or the~~
27 ~~substitution of one or more of the partners.~~

28 ~~(1) — Change of ownership does not include dissolution of the partnership to form a~~
29 ~~corporation with the same persons retaining the same shares of ownership in the new~~
30 ~~corporation. For purposes of this subsection, "substitution" means any arrangement~~
31 ~~whereby a person other than the original partner can participate in the management or~~
32 ~~administration of the partnership business or affairs.~~

33 ~~(AB)~~ Sole proprietors:

34 (1) ~~THE transfer of title to the business~~ AT LEAST 50 PERCENT OF THE OWNERSHIP INTEREST IN
35 A HEALTH CARE ENTITY FROM A SOLE PROPRIETOR TO ANOTHER INDIVIDUAL, WHETHER OR NOT
36 THE TRANSACTION AFFECTS THE TITLE TO REAL PROPERTY, SHALL BE CONSIDERED A CHANGE
37 OF OWNERSHIP.

38 ~~(42)~~ Change of ownership does not include forming a corporation from the sole
39 proprietorship with the proprietor as the sole shareholder.

40 (B) PARTNERSHIPS:

41 (1) DISSOLUTION OF THE PARTNERSHIP AND CONVERSION INTO ANY OTHER LEGAL STRUCTURE
42 SHALL BE CONSIDERED A CHANGE OF OWNERSHIP IF THE CONVERSION ALSO INCLUDES A

1 TRANSFER OF AT LEAST 50 PERCENT OF THE DIRECT OR INDIRECT OWNERSHIP TO ONE OR
2 MORE NEW OWNERS.

3 (2) CHANGE OF OWNERSHIP DOES NOT INCLUDE DISSOLUTION OF THE PARTNERSHIP TO FORM A
4 CORPORATION WITH THE SAME PERSONS RETAINING THE SAME SHARES OF OWNERSHIP IN THE
5 NEW CORPORATION.

6 (C) Corporations:

7 (1) Consolidation of two or more corporations resulting in the creation of a new corporate
8 entity SHALL BE CONSIDERED A CHANGE OF OWNERSHIP IF THE CONSOLIDATION INCLUDES A
9 TRANSFER OF AT LEAST 50 PERCENT OF THE DIRECT OR INDIRECT OWNERSHIP TO ONE OR
10 MORE NEW OWNERS.

11 (2) Formation of a corporation from a partnership, ~~or a sole proprietorship~~ OR A LIMITED
12 LIABILITY COMPANY ~~except as provided in subsections (A)(1) and (B)(1) above,~~ SHALL BE
13 CONSIDERED A CHANGE OF OWNERSHIP IF THE CHANGE INCLUDES A TRANSFER OF AT LEAST 50
14 PERCENT OF THE DIRECT OR INDIRECT OWNERSHIP TO ONE OR MORE NEW OWNERS.

15 (3) ~~or~~ The transfer, purchase or sale of shares in the corporation such that ~~it changes~~ at
16 least ~~75~~ 50 percent of the direct or indirect ownership of the CORPORATION IS SHIFTED TO
17 ONE OR MORE NEW OWNERS SHALL BE CONSIDERED A CHANGE OF OWNERSHIP.

18 ~~(D) Management contracts, leases or other arrangements: Any action that results in the current~~
19 ~~licensee retaining no control of the operation or management of the entity.~~

20 ~~(E)~~ (D) Limited Liability Companies:

21 (1) The transfer of AT LEAST 50 percent ~~or more~~ of the direct or indirect ownership interest
22 in the company SHALL BE CONSIDERED A CHANGE OF OWNERSHIP.

23 (2) ~~or~~ The termination or dissolution of the company and the conversion thereof into any
24 other entity ~~accompanied by changes in the principals with ownership interest~~ SHALL BE
25 CONSIDERED A CHANGE OF OWNERSHIP IF THE CONVERSION ALSO INCLUDES A TRANSFER OF
26 AT LEAST 50 PERCENT OF THE DIRECT OR INDIRECT OWNERSHIP TO ONE OR MORE NEW
27 OWNERS.

28 ~~(43)~~ Change of ownership does not include transfers of ownership interest between existing
29 members if the transaction does not involve the acquisition of ownership interest by a
30 new member. For the purposes of this subsection, "member" means a person or entity
31 with an ownership interest in the limited liability company.

32 ~~(E)~~ (E) MANAGEMENT CONTRACTS, LEASES OR OTHER OPERATIONAL ARRANGEMENTS:

33 (1) IF THE OWNER OF A HEALTH CARE ENTITY ENTERS INTO A LEASE ARRANGEMENT OR
34 MANAGEMENT AGREEMENT WHEREBY THE OWNER RETAINS NO AUTHORITY OR RESPONSIBILITY
35 FOR THE OPERATION AND MANAGEMENT OF THE HEALTH CARE ENTITY, THE ACTION SHALL BE
36 CONSIDERED A CHANGE OF OWNERSHIP THAT REQUIRES A NEW LICENSE.

37 2.7.24 EACH APPLICANT FOR A CHANGE OF OWNERSHIP SHALL PROVIDE THE FOLLOWING INFORMATION:

38 (A) THE LEGAL NAME OF THE ENTITY AND ALL OTHER NAMES USED BY IT TO PROVIDE HEALTH CARE
39 SERVICES. THE APPLICANT HAS A CONTINUING DUTY TO NOTIFY THE DEPARTMENT OF ALL NAME
40 CHANGES AT LEAST THIRTY (30) CALENDAR DAYS PRIOR TO THE EFFECTIVE DATE OF THE CHANGE.

- 1 (B) CONTACT INFORMATION FOR THE ENTITY INCLUDING MAILING ADDRESS, TELEPHONE AND FACSIMILE
2 NUMBERS, E-MAIL ADDRESS AND, IF APPLICABLE, WEBSITE ADDRESS.
- 3 (C) THE IDENTITY OF ALL PERSONS AND BUSINESS ENTITIES WITH A CONTROLLING INTEREST IN THE HEALTH
4 CARE ENTITY, INCLUDING ADMINISTRATORS, DIRECTORS, MANAGERS AND MANAGEMENT CONTRACTORS.
- 5 (1) A NON-PROFIT CORPORATION SHALL LIST THE GOVERNING BODY AND OFFICERS.
- 6 (2) A FOR-PROFIT CORPORATION SHALL LIST THE NAMES OF THE OFFICERS AND STOCKHOLDERS
7 WHO DIRECTLY OR INDIRECTLY OWN OR CONTROL FIVE PERCENT OR MORE OF THE SHARES OF
8 THE CORPORATION.
- 9 (3) A SOLE PROPRIETOR SHALL INCLUDE PROOF OF LAWFUL PRESENCE IN THE UNITED STATES IN
10 COMPLIANCE WITH SECTION 24-76.5-103(4), C.R.S.
- 11 (D) THE NAME, ADDRESS AND BUSINESS TELEPHONE NUMBER OF EVERY PERSON IDENTIFIED IN SECTION
12 2.7.4(C) AND THE INDIVIDUAL DESIGNATED BY THE APPLICANT AS THE CHIEF EXECUTIVE OFFICER OF
13 THE ENTITY.
- 14 (1) IF THE ADDRESSES AND TELEPHONE NUMBERS PROVIDED ABOVE ARE THE SAME AS THE
15 CONTACT INFORMATION FOR THE ENTITY ITSELF, THE APPLICANT SHALL ALSO PROVIDE AN
16 ALTERNATE ADDRESS AND TELEPHONE NUMBER FOR AT LEAST ONE INDIVIDUAL FOR USE IN THE
17 EVENT OF AN EMERGENCY OR CLOSURE OF THE HEALTH CARE ENTITY.
- 18 (E) PROOF OF PROFESSIONAL LIABILITY INSURANCE OBTAINED AND HELD IN THE NAME OF THE LICENSE
19 APPLICANT AS REQUIRED BY THE COLORADO HEALTH CARE AVAILABILITY ACT, SECTION 13-64-301, *ET*
20 *SEQ.*, C.R.S., WITH THE DEPARTMENT IDENTIFIED AS A CERTIFICATE HOLDER. SUCH COVERAGE SHALL
21 BE MAINTAINED FOR THE DURATION OF THE LICENSE TERM AND THE DEPARTMENT SHALL BE NOTIFIED
22 OF ANY CHANGE IN THE AMOUNT, TYPE OR PROVIDER OF PROFESSIONAL LIABILITY INSURANCE
23 COVERAGE DURING THE LICENSE TERM.
- 24 (F) ARTICLES OF INCORPORATION, ARTICLES OF ORGANIZATION, PARTNERSHIP AGREEMENT, OR OTHER
25 ORGANIZING DOCUMENTS REQUIRED BY THE SECRETARY OF STATE TO CONDUCT BUSINESS IN
26 COLORADO; AND BY-LAWS OR EQUIVALENT DOCUMENTS THAT GOVERN THE RIGHTS, DUTIES AND
27 CAPITAL CONTRIBUTIONS OF THE BUSINESS ENTITY.
- 28 (G) THE ADDRESS OF THE PHYSICAL LOCATION THAT IS TO CONSTITUTE THE ENTITY, AND THE NAME(S) OF
29 THE OWNER(S) OF EACH STRUCTURE ON THE CAMPUS WHERE LICENSED SERVICES ARE PROVIDED IF
30 DIFFERENT THAN THOSE IDENTIFIED IN PARAGRAPH (C) OF THIS SECTION.
- 31 (H) A COPY OF ANY MANAGEMENT AGREEMENT PERTAINING TO OPERATION OF THE ENTITY THAT SETS
32 FORTH THE FINANCIAL AND ADMINISTRATIVE RESPONSIBILITIES OF EACH PARTY.
- 33 (I) IF AN APPLICANT LEASES ONE OR MORE BUILDING(S) TO OPERATE AS A LICENSED HEALTH CARE ENTITY,
34 A COPY OF THE LEASE SHALL BE FILED WITH THE LICENSE APPLICATION AND SHOW CLEARLY IN ITS
35 CONTEXT WHICH PARTY TO THE AGREEMENT IS TO BE HELD RESPONSIBLE FOR THE PHYSICAL
36 CONDITION OF THE PROPERTY.
- 37 (J) A STATEMENT SIGNED AND DATED CONTEMPORANEOUSLY WITH THE APPLICATION STATING WHETHER,
38 WITHIN THE PREVIOUS TEN YEARS, ANY OF THE NEW OWNERS HAVE BEEN THE SUBJECT OF, OR A PARTY
39 TO, ONE OF MORE OF THE FOLLOWING EVENTS, REGARDLESS OF WHETHER ACTION HAS BEEN STAYED IN
40 A JUDICIAL APPEAL OR OTHERWISE SETTLED BETWEEN THE PARTIES.
- 41 (1) BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE UNDER THE
42 LAWS OF ANY STATE OR OF THE UNITED STATES. A GUILTY VERDICT, A PLEA OF GUILTY OR A

- 1 PLEA OF NOLO CONTENDERE (NO CONTEST) ACCEPTED BY THE COURT IS CONSIDERED A
2 CONVICTION,
- 3 (2) HAD A STATE LICENSE OF FEDERAL CERTIFICATION DENIED, REVOKED, OR SUSPENDED BY
4 ANOTHER JURISDICTION.
- 5 (3) HAD A CIVIL JUDGMENT OR A CRIMINAL CONVICTION IN A CASE BROUGHT BY THE FEDERAL,
6 STATE OR LOCAL AUTHORITIES THAT RESULTED FROM THE OPERATION, MANAGEMENT, OR
7 OWNERSHIP OF A HEALTH FACILITY OR OTHER ENTITY RELATED TO SUBSTANDARD PATIENT
8 CARE OR HEALTH CARE FRAUD.
- 9 (K) ANY STATEMENT REGARDING THE INFORMATION REQUESTED IN PARAGRAPH (J) SHALL INCLUDE THE
10 FOLLOWING, IF APPLICABLE:
- 11 (1) IF THE EVENT IS AN ACTION BY FEDERAL, STATE OR LOCAL AUTHORITIES; THE FULL NAME OF
12 THE AUTHORITY, ITS JURISDICTION, THE CASE NAME, AND THE DOCKET, PROCEEDING OR CASE
13 NUMBER BY WHICH THE EVENT IS DESIGNATED, AND A COPY OF THE CONSENT DECREE, ORDER
14 OR DECISION.
- 15 (2) IF THE EVENT IS A FELONY OR MISDEMEANOR CONVICTION INVOLVING MORAL TURPITUDE, THE
16 COURT, ITS JURISDICTION, THE CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE
17 MATTER OR A COPY OF THE INDICTMENT OR CHARGES, AND ANY PLEA OR VERDICT ENTERED BY
18 THE COURT.
- 19 (3) IF THE EVENT INVOLVES A CIVIL ACTION OR ARBITRATION PROCEEDING, THE COURT OR
20 ARBITER, THE JURISDICTION, THE CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE
21 MATTER OR A COPY OF THE COMPLAINT, AND A COPY OF THE VERDICT, THE COURT OR
22 ARBITRATION DECISION.
- 23 2.7.35 The existing licensee shall be responsible for correcting all rule violations and deficiencies in any current
24 plan of correction before the change of ownership becomes effective. In the event that such corrections
25 cannot be accomplished in the time frame specified, the prospective licensee shall be responsible for all
26 uncorrected rule violations and deficiencies including any current plan of correction submitted by the
27 previous licensee unless the prospective licensee submits a revised plan of correction, approved by the
28 Department, before the change of ownership becomes effective.
- 29 2.7.46 If the Department issues a license to the new owner, the previous owner shall return its license to the
30 Department within five (5) calendar days of the new owner's receipt of its license.
- 31 **2.8 Fitness Review Process**
- 32
- 33 2.8.2 THE DEPARTMENT MAY CONDUCT A FITNESS REVIEW OF AN EXISTING OWNER OF A LICENSED HEALTH CARE
34 ENTITY THAT HAS SUBMITTED AN APPLICATION FOR A CHANGE OF OWNERSHIP ONLY WHEN THE DEPARTMENT
35 HAS NEW INFORMATION NOT PREVIOUSLY AVAILABLE OR DISCLOSED THAT BEARS ON THE FITNESS OF THE
36 EXISTING OWNER TO OPERATE OR MAINTAIN A LICENSED HEALTH CARE ENTITY.
- 37
- 38 **2.10 Continuing Obligations of Licensee**
- 39 2.10.1 Each licensee shall have and maintain electronic business communication tools, including, but not
40 limited to, a facsimile machine, internet access and a valid e-mail address. The licensee shall use these
41 tools to receive and submit information, as required by the Department.

- 1 2.10.2 The license shall be displayed in a conspicuous place readily visible to patients, residents or clients who
2 enter at the address that appears on the license. The license is only valid while in the possession of the
3 licensee to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or
4 involuntary, nor shall a license be valid for any premises other than those for which it was originally
5 issued.
- 6 2.10.3 THE LICENSEE SHALL PROVIDE ACCURATE AND TRUTHFUL INFORMATION TO THE DEPARTMENT DURING
7 INSPECTIONS, INVESTIGATIONS AND LICENSING ACTIVITIES.
- 8 2.10.34 The licensee shall provide, upon request, access to such individual patient, resident, client or consumer
9 records as the Department requires for the performance of its regulatory oversight responsibilities.
- 10 (A) A licensee shall provide, upon request, access to or copies of reports and information required
11 by the Department including, but not limited to, staffing reports, census data, statistical
12 information, and such other records as the Department requires for the performance of its
13 regulatory oversight responsibilities.
- 14 (B) The Department shall not release to any unauthorized person any information defined as
15 confidential under state law.
- 16 2.10.45 Where a licensed health care entity is subject to inspection, certification, or review by other agencies,
17 accrediting organizations, or inspecting companies, the licensee shall provide and/or release to the
18 Department, upon request, any correspondence, reports or recommendations concerning the licensee
19 that were prepared by such organizations.
- 20 2.10.56 Each licensee shall notify the Department in writing of any change in the information required by
21 sections 2.4.3 OR 2.7.4 of this Chapter from what was contained in the last submitted license
22 application. Except for the operational changes that require Department approval as set forth in
23 subsection (A) below or the changes requiring advance notice as set forth in subsection (B), the
24 licensee shall notify the Department of all changes in information as soon as practicable, but no later
25 than thirty (30) calendar days after the change becomes effective.
- 26 (A) Except as otherwise provided in 6 CCR 1011-1, Chapter IV, Part 3.200, the following changes
27 to the operation of the licensed health care entity shall not be implemented without prior
28 approval from the Department. A licensee shall, at least thirty (30) calendar days in advance,
29 submit a written request to the Department regarding any of these proposed changes.
- 30 (1) Increase in licensed capacity.
- 31 (a) If a licensee requests an increase in licensed capacity that is approved by the
32 Department, an amended license shall be issued upon payment of the
33 appropriate fee.
- 34 (b) The Department has the discretion to deny a requested increase in licensed
35 capacity if it determines that the increase poses a potential risk to the health,
36 safety or welfare of the health care entity's patients, clients or residents based
37 upon the entity's compliance history, life safety code requirements, or because
38 the entity is unable to meet the required health and environmental criteria for
39 the increased capacity.
- 40 (2) Change in a management company or proposed use of a management agreement not
41 previously disclosed in sections 2.4.3 or 2.7.4.
- 42 (3) Change in license category or classification.

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2 **2.11 Department Oversight**

3 2.11.2 LICENSURE SURVEYS AND TIERED INSPECTIONS

4 FOR EACH HEALTH CARE ENTITY THAT IS ELIGIBLE, THE DEPARTMENT WILL EITHER EXTEND THE STANDARD
5 LICENSURE SURVEY CYCLE UP TO THREE (3) YEARS OR UTILIZE A TIERED LICENSURE INSPECTION SYSTEM. THE
6 DEPARTMENT WILL IMPLEMENT THE EXTENDED SURVEY CYCLE OR TIERED LICENSURE INSPECTION SYSTEM IN
7 PHASES BY LICENSE CATEGORY WITH FULL IMPLEMENTATION TO BE ACCOMPLISHED NO LATER THAN JULY 1,
8 2014.

9 THE EXTENDED SURVEY CYCLE OR TIERED INSPECTION SYSTEM IS DESIGNED TO REDUCE THE TIME NEEDED FOR
10 AND COSTS OF LICENSURE INSPECTIONS FOR BOTH THE DEPARTMENT AND THE LICENSED HEALTH CARE ENTITY;
11 REDUCE THE NUMBER, FREQUENCY, AND DURATION OF ON-SITE INSPECTIONS; REDUCE THE SCOPE OF DATA AND
12 INFORMATION THAT HEALTH CARE ENTITIES ARE REQUIRED TO SUBMIT OR PROVIDE TO THE DEPARTMENT IN
13 CONNECTION WITH THE LICENSURE INSPECTION; REDUCE THE AMOUNT AND SCOPE OF DUPLICATIVE DATA,
14 REPORTS, AND INFORMATION REQUIRED TO COMPLETE THE LICENSURE INSPECTION; AND BE BASED ON A SAMPLE
15 OF THE FACILITY SIZE.

16 (A) IN ORDER TO BE ELIGIBLE, THE HEALTH CARE ENTITY SHALL MEET ALL OF THE FOLLOWING CRITERIA:

17 (1) LICENSED FOR AT LEAST THREE (3) YEARS;

18 (2) NO ENFORCEMENT ACTIVITY WITHIN THREE (3) YEARS PRIOR TO THE DATE OF THE
19 SURVEY;

20 (3) NO PATTERNS OF DEFICIENT PRACTICES, AS DOCUMENTED IN THE INSPECTION AND
21 SURVEY REPORTS ISSUED BY THE DEPARTMENT WITHIN THE THREE (3) YEARS PRIOR
22 TO THE DATE OF THE INSPECTION; AND

23 (4) NO SUBSTANTIATED COMPLAINT RESULTING IN THE DISCOVERY OF SIGNIFICANT
24 DEFICIENCIES THAT MAY NEGATIVELY AFFECT THE LIFE, HEALTH, OR SAFETY OF
25 PATIENTS, RESIDENTS OR CONSUMERS OF THE HEALTH CARE ENTITY WITHIN THE
26 THREE (3) YEARS PRIOR TO THE DATE OF THE SURVEY.

27 (B) THE DEPARTMENT MAY EXPAND THE SCOPE OF A TIERED INSPECTION TO AN EXTENDED OR FULL
28 SURVEY IF THE DEPARTMENT FINDS DEFICIENT PRACTICE DURING THE TIERED INSPECTION PROCESS,

29 (C) NOTHING IN THIS SECTION 2.11.2 LIMITS THE ABILITY OF THE DEPARTMENT TO CONDUCT A PERIODIC
30 INSPECTION OR SURVEY THAT IS REQUIRED TO MEET ITS OBLIGATIONS AS A STATE SURVEY AGENCY ON
31 BEHALF OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES OR THE DEPARTMENT OF HEALTH
32 CARE POLICY AND FINANCING TO ASSURE THAT THE HEALTH FACILITY MEETS THE REQUIREMENTS FOR
33 PARTICIPATION IN THE MEDICARE AND MEDICAID PROGRAMS.

34 2.11.23 If the Department has information about an applicant or licensee or its employees or managers that has
35 been acquired in the context of a Department review, and provides such information to any state or
36 federal agency that may have a statutory or regulatory interest in the entity or its employees, the
37 Department shall also forward to the other agency any responses it has received from the licensee or
38 applicant to the matter under review, if applicable.

39 2.11.34 The Department may use the following measures to ensure a licensee's full compliance with the
40 applicable statutory and regulatory criteria.

- (A) Unscheduled or unannounced reviews. The Department may conduct an unscheduled or unannounced review of a current licensee based upon, but not limited to, the following criteria:
- (1) Routine compliance inspection,
 - (2) Reasonable cause to question the applicant's continued fitness to conduct or maintain licensed operations,
 - (3) A complaint alleging non-compliance with license requirements,
 - (4) Discovery of previously undisclosed information regarding a licensee or any of its owners, officers, managers or other employees if such information affects or has the potential to affect the licensee's provision of care, or
 - (5) The omission of relevant information from documents requested by the Department or indication of false information submitted to the Department.

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PART 4 WAIVER OF REGULATIONS FOR HEALTH CARE ENTITIES

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4.105 Termination, Expiration and Revocation of Waiver

- (1) *General.* The term for which each waiver granted will remain effective shall be specified at the time of issuance.
 - (a) The term of any waiver shall not exceed any time limit set forth in applicable state or federal law.
 - (b) At any time, upon reasonable cause, the Department may review any existing waiver to ensure that the terms and conditions of the waiver are being observed, and/or that the continued existence of the waiver is otherwise appropriate.
 - (c) Within thirty (30) calendar days of the termination, expiration or revocation of a waiver, the Applicant shall submit DOCUMENTATION to the Department THAT DEMONSTRATES THE LICENSEE IS NOW IN FULL COMPLIANCE WITH THE PREVIOUSLY WAIVED REGULATION. ~~an attestation, in the form required by the Department, of compliance with the Regulation to which the waiver pertained.~~

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Chapter VII – ASSISTED LIVING RESIDENCES

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1.103(2) *License Fees*

~~1.103(2)(g) Fee Cap~~

~~Notwithstanding the fees that become effective January 1, 2009, any fee increases requested by the Department for adoption by the Board of Health before June 30, 2014, shall be subject to the following restriction: the dollar amount increase in total annual revenue generated by the changed fees shall not~~

1 ~~be more than a dollar amount equal to 37 percent of the total annual revenue generated during state~~
2 ~~fiscal year 2010-11.~~

3 1.105(2) **Resident Agreement.**

4

5 105(2)(c) Disclosures. There shall be written evidence that the following have been disclosed,
6 upon admission unless otherwise specified, to the resident or the resident's legal
7 representative, as appropriate:

8 (i) the facility policies and procedures listed under Section 1.104(5).

9 (ii) the method for determining staffing levels based on resident needs, INCLUDING WHETHER
10 OR NOT THE FACILITY HAS AWAKE STAFF 24 HOURS A DAY, the on-site availability of first aid
11 certified staff, and the extent to which certified or licensed health care professionals are
12 available on-site.

13 (iii) types of daily activities, including examples of such activities, that will be provided for
14 the residents.

15 (iv) whether or not the facility has automatic fire sprinkler systems.

16 (v) if the facility uses restrictive egress alert devices, the types of individuals exhibited by
17 persons that need such devices.